

# **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Darren Turner on behalf of himself and all  
others similarly situated,

Plaintiffs,

v.

Civil Action No. 2:16-cv-02864-DCN

BFI Waste Services, LLC d/b/a Republic  
Services; Republic Services of South Carolina,  
LLC d/b/a Republic Services; and Republic  
Services, Inc.,

Defendants.

**DECLARATION OF JAMES TORREY**

I, James Torrey, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I have personal knowledge of the facts in this declaration from information contained in relevant corporate records, made and maintained under my supervision, as part of my normal business duties and in the ordinary course of business.
2. I am currently employed by BFI Waste Services, LLC ("Republic") as the General Manager of the Charlotte, North Carolina waste hauling facility. I have held this position since summer 2015. I have been employed by Republic since November 2000.
3. Republic provides waste collection and disposal services to customers in or around Charlotte, North Carolina.
4. Plaintiff Darren Turner ("Turner") is a current employee who has worked at Republic's Charlotte, North Carolina waste hauling facility as a Residential Driver since approximately May 2014. As a Residential Driver, Turner is responsible for picking up waste from homes and transporting it to a transfer station or landfill.

5. Attached as Exhibit A is a true and correct copy of Turner's pay sheet for the week ending January 9, 2016. Exhibit A illustrates how Republic calculates Turner's pay each week of his employment with Republic as a Residential Driver at Charlotte, North Carolina.

6. As a Residential Driver, Turner receives a fixed job/day rate, which has ranged from \$152.13 to \$175.93, for each shift or day of work.

7. On occasion, Turner is also eligible to receive additional "help pay" at an hourly rate. Turner receives help pay (in addition to his job/day rate) when, after completing his own assigned route, he assists other drivers by helping them complete their routes. At times during his employment Turner has also been eligible to receive hourly pay for "downtime," which is time during his route when his truck is inoperable or otherwise experiences a mechanical malfunction, and he is not able to continue on his route, or time during which he attends a safety or operations meeting. In 2016, Turner has received up to \$12.96 per hour for each hour of help time or downtime.

8. In addition to his job/day rate, Turner is also eligible to receive \$20 for each day he trains a new driver, which primarily involves Turner "shadowing" new drivers inside the vehicle, and providing coaching and instruction while the new employee drives the truck through the assigned route.

9. Turner's total non-overtime pay for the week (regardless of whether through job/day rate only or a combination of job/day rate and hourly rate) compensates Turner for all hours that he works that week, including overtime hours, and not merely just the first 8 hours in a day or the first 40 hours in a week.

10. As demonstrated in Exhibit A to this declaration, for the week ending January 9, 2016, Turner was paid a job/day rate of \$155.93 for each shift or day of work (identified on

Exhibit A as “Dayrate”) and \$12.77 for each hour of downtime or help time (identified on Exhibit A as “DT/HT”) in the week.

11. If Turner works more than 40 hours in a workweek, Republic pays him overtime compensation. The way Republic calculates Turner’s overtime is outlined in his weekly pay sheet, Exhibit A. Republic calculates Turner’s overtime by first dividing his total compensation for the week (job/day rates and hourly rates) by his total hours worked in the week to calculate his regular rate. Republic then multiplies his regular rate by 0.5 and then multiplied that number by the number of overtime hours Turner works in the week to get Turner’s overtime premium for the week. That overtime premium is then paid to Turner in addition to all other compensation paid for that week.

12. During the week ending January 9, 2016, as demonstrated on Exhibit A, Turner received a job/day rate of \$155.93 for his work Monday through Friday (identified on Exhibit A as “Day Pay” and totaling \$779.67) and \$12.77 for each hour of the 11 hours of help time and 9 hours of downtime in the week (identified on Exhibit A as “HT & DT Pay” and totaling \$255.40), for a total of \$1,035.07 in straight-time (*i.e.*, non-overtime compensation) for all hours worked during the week (denoted on Exhibit A as “INTV Wage”).

13. For the week ending January 9, 2016, Turner’s pay sheet shows that he worked a total of 42.15 hours (denoted on Exhibit A in the row titled “Total” and the column titled “Hrs Worked”). Turner’s total compensation as reflected in his pay sheet for the week ending January 9, 2016 — the \$1,035.07 payment composed of job/day rates and hourly pay — covered his straight-time compensation for all 42.15 hours he worked that week.

14. Republic paid Turner overtime for the week ending January 9, 2016. As depicted in Exhibit A, Republic calculated Turner’s regular rate of pay for the week ending January 9,

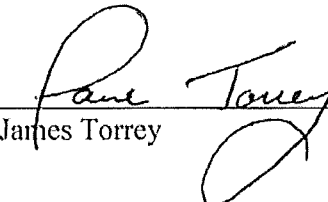
2016, by adding up his total compensation for the week — including his job/day rates (\$779.67) and hourly pay (\$255.40) — and dividing that total compensation (\$1,035.07) by his total hours worked (42.15), resulting in a regular rate of \$24.56 for the week. Republic paid Turner at this regular rate for each of the 42.15 hours worked in the week ending January 9, 2016 (*i.e.*, the “1.0” component for hours 1-42.15).

15. Republic then paid Turner an overtime premium for all hours worked over 40 at 0.5 times his regular rate of pay (\$12.2784 overtime rate, identified on the pay sheet example as “FLSA OT”). Turner’s pay records show that Republic paid him 2.15 hours of overtime at \$12.2784 per hour, for a total of \$26.40 in overtime pay for the week ending January 9, 2016 (*i.e.*, the “.5” component for all hours worked over 40).<sup>1</sup>

16. Republic added this overtime premium to Turner’s straight-time compensation to arrive at his total compensation for the week, \$1,061.47.

I declare, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the foregoing is true and correct to the best of my personal knowledge and belief.

Executed on October 12, 2016, at Charlotte, North Carolina.

  
James Torrey

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<sup>1</sup> Minor discrepancies in calculations are due to rounding.

# Exhibit A

